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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,301	07/28/2003	Remo D. Belli	G-3030	1905

7590 01/13/2005  
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EXAMINER
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HSIEH, SHIH YUNG

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/627,301	<b>Applicant(s)</b> BELLI, REMO D.	
	<b>Examiner</b> Shih-yung Hsieh	<b>Art Unit</b> 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on: \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
    a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,580,023. Although the conflicting claims are not identical, they are not patentably distinct from each other because the independent claims 1 and 16 are claiming the identical invention recited in claims 1 and 18 of the above patent except using a few different wording and adjectives describing the identical limitations in the claims. The dependent claims of the instant application are identical to the dependent claims of the above patent.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a drumming surface is comprised of more than one layer in claim 15; said frame member is square in shape in claim 17; said frame member is rectangular in shape in claim 18; said frame member is

triangular in shape in claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 2-15, and 17-19 are objected to because of the following informalities: the preamble of claims 2-15, and 17-19 is not consistent with the independent claims 1 and 16. Appropriate correction is required.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 13-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Koishikawa (3,405,586).

Regarding claims 1-3, and 16, Koishikawa discloses a drumhead comprising a frame member having a generally planar upper member (12a) and a generally planar lower member (12b) parallel to and spaced apart from said planar upper member, an inner rim and an outer rim (Fig. 4); a material for constituting a drumming surface (11) extending flat across the area defined within said inner rim, said material for constituting a drumming surface having a rim portion integrally formed therewith (Fig. 4), including a generally vertically continuous wall flowing from said drumming surface (Figs. 1 and 4 indicate a vertical wall) and a shoulder member formed below said rim portion and in conjunction with said wall (Figs. 1 and 4 show identical set up and applicant's Fig.4), which includes a base portion, wherein said wall at its base portion extends flat across the area defined between said inner rim and said outer rim to maximize the surface to surface contact between said material constituting a drumming surface and said planar upper member and said planar lower member; and a means (col. 3, lines 5-12) to secure said material constituting a drumming surface between said planar upper member and said planar lower member of said frame member (Fig. 4).

Regarding claims 4 and 5, Koishikawa discloses the claimed invention (Fig. 4 shows one layer of material).

Regarding claim 13, Koishikawa discloses the claimed invention (col. 1, line 39).

Regarding claim 14, Koishikawa discloses the claimed invention (Fig. 1 shows the drumhead is tunable by turning 16).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6-7, 9, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koishikawa in view of Woodson (4,077,297).

Regarding claim 6, Koishikawa discloses the claimed invention except that a plurality of openings disposed within said annular hoop.

Woodson teaches a plurality of openings (holes for fasteners 54 to go through) disposed within said annular hoop for connecting the drumhead to the drum shell. It would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by Woodson to include a plurality of openings disposed within said annular hoop for the purpose of connecting the drumhead to the drum shell.

Regarding claim 7, Koishikawa discloses the claimed invention except the hoop measures less than 3/8" in thickness.

Woodson teaches a hoop measures less than 3/8" in thickness (col. 3, line 21). It would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by Woodson to include the hoop measures less than 3/8" in thickness for the purpose of providing a lighter weight hoop.

Regarding claim 9, see above statement, and Koishikawa discloses using nuts and bolts.

Regarding claims 11 and 12, Koishikawa discloses the claimed invention except that said planar upper member and said planar lower member are comprised of fiberboard/synthetic material.

Woodson teaches both upper and lower planar member being comprised of hardboard which is considered to be fiberboard/synthetic material. it would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by Woodson to include said planar upper member and said planar lower member are comprised of fiberboard/synthetic material for the purpose of forming advantageous ring assembly (col. 1, lines 52-54).

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koishikawa in view of McGill (6,365,812).

Regarding claim 15, Koishikawa discloses the claimed invention except that said material constituting a drumming surface is comprised of more than one layer.

McGill teaches a material constituting a drumming surface being comprised of more than one layer for exhibiting minimal stretch and good tonal quality (col. 3. lines

65-67). It would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by McGill to include said material constituting a drumming surface being comprised of more than one layer for the purpose of exhibiting minimal stretch and good tonal quality.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koishikawa in view of Miller (5,610,350).

Regarding claim 8, Koishikawa discloses the claimed invention except that said means to secure said material constituting a drumming surface between said planar upper member and said planar lower member of said annular hoop comprises an adhesive compound.

Miller teaches using adhesive (col. 4, line 15) as a means to secure a drum tuning mechanism bracket to a drum. It would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by Miller to include adhesive as said means to secure said material constituting a drumming surface between said planar upper member and said planar lower member of said annular hoop.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koishikawa in view of Miller as applied to claims 1 and 8 above, and further in view of Fukushima et al. (4,775,574).



Regarding claim 10, Koishikawa in view of Miller disclose the claimed invention except to specify that the adhesive compound is a polyamide web adhesive.

Fukushima et al. teach using polyamide web adhesive for fixing the unit bodies for a musical instrument (col. 8, line 55). It would have been obvious to one having ordinary skill in the art to modify Koishikawa in view of Miller's drumhead as taught by Fukushima et al. to include the adhesive compound being a polyamide web adhesive for the purpose of fixing elements together.

12. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koishikawa in view of Schwagerl (6,063,992).

Regarding claims 17 and 18, Koishikawa discloses the claimed invention except that said frame member is square/rectangular in shape.

Schwagerl teaches a drum pad being square/rectangular in shape for using with snare drum (abstract). It would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by Schwagerl to include said frame member is square/rectangular in shape for the purpose of using with snare drum.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koishikawa in view of Magruder (D320,035).

Regarding claim 19, Koishikawa discloses the claimed invention except that said frame member is triangular in shape.

Magruder teaches a drum pad being triangular in shape for providing a practicing drum (Figure). It would have been obvious to one having ordinary skill in the art to modify Koishikawa's drumhead as taught by Magruder to include said frame member being triangular in shape for the purpose of providing a practicing drum.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shih-yung Hsieh whose telephone number is 571-272-2065. The examiner can normally be reached on 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SHIH-YUNG HSIEH  
PRIMARY EXAMINER